

Consumer Power Advocates

Columbia University Medical Center
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Mount Sinai Health System
New York Presbyterian Hospital
New York University

VIA ELECTRONIC MAIL

June 1, 2017

Honorable Ashley Moreno
Honorable David Van Ort
Honorable Erika Bergen
State of New York
Department of Public Service
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case 15-M-0127 In the Matter of Eligibility Criteria for Energy Service Companies.

Case 12-M-0476 Proceeding on Motion of the Commission to Assess Certain Aspects of the Residential and Small Non-residential Retail Energy Markets in New York State.

Case 98-M-1343 In the Matter of Retail Access Business Rules.

Dear Judges Moreno, Van Ort, and Bergen:

The Consumer Power Advocates (“CPA”) hereby submits this letter in accordance with Your Honor’s May 31, 2017 request for responses to the Motion filed by Constellation Energy Gas Choice, LLC, Constellation New Energy, Inc. and Direct Energy Services, LLC (“ESCO Motion”). The ESCO Motion requests a stay of Your Honor’s May 25, 2017 Ruling on Motion to Compel Discovery Responses (“Ruling”), wherein you directed the ESCOs to respond to the discovery requests of the Public Utility Law Project (“PULP”) within five days.

CPA is an unincorporated coalition of not-for-profit commercial institutional customers in the Consolidated Edison service territory that advocates on behalf of consumer interests before the Commission, NYISO and elsewhere. CPA members are very active in the C&I commodity retail

markets in the City and it is their highly confidential usage data that is at issue in the discover requests that are the subject of the instant stay request.

Without opining on the merits of the various arguments made regarding the need for customer-specific data, CPA wishes to express its extreme concern and opposition to the release of its members' (or anyone else's) customer-specific information, including name, address, and utility account numbers. We support the interlocutory appeal being made by certain of the parties and here express our support for the requested stay until such time as the Commission and/or the Courts have an opportunity to rule.

The Commission has a long tradition of protecting customer-specific information from disclosure without that customer's expressed consent. Your Honors' ruling compelling such disclosure represents a departure from that tradition and merits review by the Commission. We understand that PULP and its consultant have executed protective agreements, but we are, frankly, not inclined to entirely trust their protectiveness. The headlines are rife with stories about how even well-protected data can be accessed by sufficiently well-motivated parties. The data at issue here has more than enough value to provide extreme motivation.

If our concerns turn out to be well-founded, it will be small comfort to us to have the Commission or courts rule that the information should not be provided only after our data has been disclosed.

The issue is not simply the potential for PULP to "harass" our members (we see no reason that PULP would do so,) rather it is the proposed departure from the Commission's long-standing policy of non-disclosure that worries us.

Apart from a delay in the process that would accompany a stay, we see no tangible harm that would afflict PULP or others from allowing the Commission to rule on the interlocutory review request. However, should our members' data (or that of any affected customer) be released to PULP or others, and subsequently make its way "into the clear," the competitive harm could be irreparable. Under the circumstances, the balance of the equities lies in granting the requested stay and allowing the Commission to rule.

Respectfully submitted,

/s/

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Cc: Active Parties